

Remarks

By this Amendment, claims 17-21, 32 and 33 are canceled, and new claims 34 and 35 are added to the application. Claims 1-16, 22-31, and 34-35 are pending in the application. Applicant requests reconsideration in view of the amendments and the following remarks.

I. Interview Summary

Applicant's attorney discussed the application with Examiner Shaw in a telephone interview on January 10, 2006. The substance of the interview is discussed in the remarks below. As discussed in the interview, Applicant's attorney is mailing Examiner Shaw Applicant's horse control device along with the Dually Halter and an instructional video of the Dually Halter to assist the examiner in comparing the two devices.

II. Restriction Requirement

The Office Action Summary indicates that claims 1-29 are pending in the application and that claims 17-21 have been withdrawn from consideration. The action is completely silent as to the status of claims 30 and 31 (identified as Group IV in the previous Restriction Requirement).

As pointed out in Applicant's response filed July 11, 2005, restriction between the Group IV claims and the Group I claims (claims 1-16 and 22-29) is not proper because it had not been shown that the apparatus as claimed can be used to practice a materially different process, as required under MPEP § 806.05(e). The present action does not address Applicant's argument. If the restriction between Groups I and IV is not withdrawn, Applicant's request further clarification on the basis for this restriction requirement.

III. Rejection of Claims 1-6, 8, 15, 22-24, 26 and 27

Claims 1-6, 8, 15, 22-24, 26 and 27 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by the Dually Halter. Applicant traverses this rejection and requests that it be withdrawn.

Claims 1-6, 8, and 15:

Claim 1 is directed to a horse-control device comprising a first nose band portion for extending over a horse's nose, the first nose band portion being elastic. The horse-control device also comprises a second nose band portion for extending over the horse's nose. The second nose

band portion fits substantially less tightly on the horse's nose than the first nose band portion such that when tension is applied to the first nose band portion to cause the first nose band portion to stretch, the second nose band portion is caused to apply pressure to the horse's nose. The Dually Halter neither teaches nor suggests this combination of features.

As discussed in the telephone interview, the Dually Halter does not include a nose band that is elastic, as recited in claim 1. Instead, the Dually Halter has an upper nose band comprising a non-elastic nylon strap that is adjustable with a buckle and a lower nose band comprising braided non-elastic nylon rope. As can be seen from the Dually Halter, the nylon straps and the nylon rope are not elastic and do not stretch when pressure is applied.

Moreover, the device of claim 1 functions in a much different manner than the Dually Halter. As recited in claim 1, the second nose band (e.g., chain 38 in FIG. 1 of the application) fits less tightly on a horse's nose than the elastic, first nose band (e.g., rubber strap 36 in FIG. 1). As pressure is applied to the first nose band (e.g., by applying a downward pressure to the lead line 46, as indicated by arrow A in FIG. 1), the first nose band stretches, which in turn removes slack from the second nose band so as to cause the second nose band to apply pressure to the horse's nose. Removal of pressure allows the first nose band to contract, which in turn slackens the second nose band, causing the second nose band to remove pressure from the horse's nose.

A significant advantage of the device is that the horse itself can effect immediate removal of pressure from its nose by coming back toward the handler (i.e., moving its head in the direction of the applied force). When the horse responds in this manner, tension in the lead line is reduced, which immediately causes the elastic first nose band to contract. Contraction of the first nose band introduces slack in the second nose band to immediately remove pressure from the horse's nose.

The Dually Halter works in a completely different way. The end portions of the nylon rope (the lower nose band) extend through respective metal cheek piece on opposite side of the halter. Metal rings are connected to the opposite ends of the rope. The Dually Halter is used by connecting a lead line to one of the metal rings. As pressure is applied to the lead line, the lead line pulls the nylon rope through the cheek piece, thereby tightening the rope around the horse's nose. As pressure is applied, neither the nylon rope nor the nylon strap stretches. Also, as shown in the instruction video for the Dually Halter, pressure can only be removed from the horse's nose when the handler releases tension on the lead line or if the horse moves close

enough to the handler to introduce sufficient slack in the lead line. Thus, the horse cannot effect immediate removal of pressure by responding to the handler's signal, as in Applicant's device.

Moreover, tightening the nylon rope does not cause the nylon strap (the upper nose band in the Dually Halter) to tighten around or apply an increased pressure to the horse's nose. Even assuming for argument's sake that the nylon rope is elastic and is capable of stretching (although it is not), the pressure applied by the nylon strap (the upper nose band) on the horse's nose, if any, is not effected by applying tension to the nylon rope. As explained above, in the instantly claimed device, when tension is applied to the first nose band portion to cause the first nose band portion to stretch, the second nose band portion is caused to apply pressure to the horse's nose. Thus, even if the Dually Halter is provided with an elastic nose band, the Dually Halter is not capable of operating in the manner recited in claim 1.

Accordingly, for at least the foregoing reasons, claim 1 is not anticipated or rendered obvious by the Dually Halter and is allowable.

Claims 2-6, 8, and 15 depend from claim 1 and are allowable for the reasons given above in support of claim 1 and because each dependent claim sets forth an independently patentable combination of features.

Claims 22-24, 26 and 27:

Claim 22 recites a horse-control device comprising a resilient biasing member extending over a horse's nose, and a substantially non-resilient nose band extending over the horse's nose. Claim 22 also recites that when tension is applied to the biasing member, the biasing member stretches across the horse's nose and the nose band engages and applies pressure to the horse's nose, and when tension on the biasing member is removed, the biasing member contracts and the nose band immediately reduces the pressure applied to the horse's nose. The Dually Halter neither teaches nor suggests this combination of features.

Unlike claim 22, the Dually Halter does not include a stretchable, resilient biasing member extending over a horse's nose, as recited in claim 22. Instead, the Dually Halter has an upper nose band comprising a non-stretchable nylon strap that is adjustable with a buckle and a lower nose band comprising braided non-stretchable nylon rope. As can be seen from the Dually Halter, neither the nylon straps nor the nylon rope is a biasing member and neither is capable of stretching when a handler applies pressure to the halter.

Accordingly, for at least the foregoing reasons, claim 22 is not anticipated or rendered obvious by the Dually Halter and is allowable.

Claims 23-24, 26 and 27 depend from claim 22 and are allowable for the reasons given above in support of claim 22 and because each dependent claim sets forth an independently patentable combination of features.

IV. Rejection of Claim 9

Claim 9 was rejected under 35 U.S.C. § 103(a) as allegedly being obvious from the Dually Halter and U.S. Patent No. 3,171,409 to Cetrone (Cetrone). Applicant traverses this rejection and requests that it be withdrawn.

Claim 9 is allowable for the reasons given above in support of claim 1 and because claim 9 further recites that the first nose band comprises rubber.

The action contends that the “use of the rubber of Cetrone in the halter of Dually Halter would have been obvious to one skilled in the art in order to make the elastic portion of durable material and to reduce manufacturing costs.” Applicant disagrees with this contention.

Cetrone discloses a flexible belt 11 made of leather or saran. Pressure pads 28 are affixed to the inner surface of the belt 11. Cetrone does state that the pressure pads 28 can be formed from foam rubber. Foam rubber as used in Cetrone is much less durable than the nylon rope used in the Dually Halter and can easily break when tensioned. Foam rubber therefore would be an inappropriate material for forming the rope in the Dually Halter. Accordingly, one skilled in the art would not have found it obvious to use foam rubber in the Dually Halter.

V. Rejection of Claims 10 and 25

Claims 10 and 25 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious from the Dually Halter and U.S. Patent No. 2,932,930 to Ray (Ray). Applicant traverses this rejection and requests that it be withdrawn.

Claims 10 and 25 depend from claims 1 and 22, respectively, and are allowable for the reasons given above in support of their base claims and because each dependent claim sets forth an independently patentable combination of features.

VI. Rejection of Claims 16 and 29

Claims 16 and 29 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious from the Dually Halter and U.S. Patent No. 6,371,056 to Phillips (Phillips). Applicant traverses this rejection and requests that it be withdrawn.

Claims 16 and 29 depend from claims 1 and 22, respectively, and are allowable for the reasons given above in support of their base claims and because each dependent claim sets forth an independently patentable combination of features.

VII. New Claims

New claims 34 and 35 have been added to the application.

New claim 34, in combination with claim 4, recites that each of the first and second nose band portions have opposite ends connected to the first and second cheek pieces. In contrast, the ends of the nylon rope (the lower nose band) in the Dually Halter are not connected to the cheek pieces of the halter. Instead, the ends of the rope extend through the cheek pieces so that the loop formed by the rope can be tightened around the horse's nose when tension is applied.

New claim 35, in combination with claim 15, further recites a lead line connected to the chin strap, wherein application of tension on the lead line causes the first nose band portion to stretch, which in turn causes the second nose band portion to apply pressure to the horse's nose. In contrast, the Dually Halter utilizes a lead line connected to the metal ring at one end of the nylon rope (the lower nose band). If a lead line was instead connected to the chin strap of the Dually Halter, the nylon rope could not be tightened to apply any pressure to the horse's nose. Thus, there is no teaching or suggestion to modify the Dually Halter to yield the combination of features recited in claim 35.

VIII. Conclusion

The present application is in condition for allowance and such action is respectfully requested. If any further issues remain concerning this application, the Examiner is invited to call the undersigned to discuss such matters.

Respectfully submitted,

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